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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/748,723	12/30/2003	Christopher Robert Dale Wilson	07942.0005.CPUS03	7524
48490	7590	08/07/2007		
MICHAEL K. LINDSEY GAVRILOVICH, DODD & LINDSEY, LLP 3303 N. SHOWDOWN PL. TUCSON, AZ 85749			EXAMINER NGUYEN, QUANG N	
			ART UNIT 2141	PAPER NUMBER
			MAIL DATE 08/07/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/748,723

Applicant(s)

WILSON ET AL.

Examiner

Quang N. Nguyen

Art Unit

2141

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 July 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 24-28, 39, 40, 42-49 and 51-55 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 24-28, 39, 40, 42-49 and 51-55 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 December 2003 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Detailed Action

1. This Office Action is responsive to the Request for Continued Examination (RCE) filed on 07/13/2007. Claims 50 and 57-64 have been canceled. Claims 24-28, 39-40, 42-49 and 51-55 remain pending.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 07/31/2007 has been entered.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claim 24 is rejected under 35 U.S.C. 102(e) as being anticipated by McConnell et al. (US 2003/0149774 A1), hereinafter "McConnell".

5. As to claim 24, **McConnell** teaches a method, comprising:

starting a client on a device selected from the group consisting of the wireless mobile terminal (*i.e.*, *Mobile Station MS 48*) and the networked computer (*i.e.*, *the networked computers A, B and C as in Fig. 3*) (**McConnell, paragraphs [0051-0054]**);

the client sending a login message to a server (*i.e.*, *an application server such as PTT server 68, IM server 70, or VM server 72*) located outside of the wireless carrier network, the server communicating with the client by way of a packet network (*i.e.*, *by way of IP network 50 as in Fig. 3*) (**McConnell, paragraphs [0051-0054] and [0068]**);

the server establishing a communication session with the client in response to receiving the login message (*i.e.*, *in response to receiving the service request from the MS 48, the application server might be setting up and facilitating a group communication, such as a PTT session, or multicasting an instant message, or prompt for and record a voice message*) (**McConnell, paragraphs [0042] and [0051-0054]**);

at the device, selecting one or more recipients for a message, the recipients including the other device from the group consisting of the wireless mobile terminal and the networked computer (*i.e.*, *a user of MS 48 invokes a communication application on MS 48, seeking to establish communication session over IP network 50 with a user operating networked terminal B*) (**McConnell, paragraphs [0072-0075] and [0080]**);

sending the message to the server by way of the packet network using a push-to-talk function provided by the client (*i.e.*, a user of MS 48 invokes a PTT application to set up the PTT session between the communicating entity MS 48 and entities A, B and C) (**McConnell, paragraphs [0072-0075]**); and

the server selectively forwarding the message to the recipients that are available (**McConnell, paragraphs [0072-0079]**) and storing the message for later delivery to unavailable recipients, based on the respective availability of each of the recipients (**McConnell, paragraphs [0004], [0064-0065] and [0080-0084]**).

6. As to claim 25, **McConnell** teaches the method of claim 24, wherein the message is selected from the group consisting of a voice message, a text message, and a combination of the foregoing (**McConnell, paragraphs [0004] and [0042]**).

7. As to claim 26, **McConnell** teaches the method of claim 24, further comprising the server forwarding the message to an email server (*i.e.*, the three services: PTT service, IM service and VM service being used as examples, and without limitation, wherein the particular services carried out by application server 16 can also take any of variety of forms such as an email service) (**McConnell, paragraphs [0004] and [0042]**).

8. As to claim 27, **McConnell** teaches the method of claim 24, further comprising the server forwarding the message to an external instant messaging (IM) service (**McConnell, paragraphs [0004] and [0042]**).

9. As to claim 28, **McConnell** teaches the method of claim 24, wherein the message includes streaming voice (*i.e., nowadays, electronic devices such as mobile phones, PDAs and the like, are capable of communicating voice, data, images, video and other multimedia content, wherein streaming voice is a form of multimedia content*) (**McConnell, paragraphs [0004], [0039] and [0042]**).

10. Claims 39-40 and 42-44 are corresponding computer program product claims of method claims 24-28; therefore, they are rejected under the same rationale.

11. Claims 45-49 are corresponding wireless terminal claims of method claims 24-28; therefore, they are rejected under the same rationale.

12. Claims 51-55 recite networked device (*i.e., networked terminals A, B, or C*) claims that contain similar limitations as wireless mobile terminal (*i.e., Mobile Station MS 48*) claims 45-49; therefore, they are rejected under the same rationale.

13. Further references of interest are cited on Form PTO-892, which is an attachment to this Office Action.

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14. A shortened statutory period for reply to this action is set to expire THREE (3) months from the mailing date of this communication. See 37 CFR 1.134.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quang N. Nguyen whose telephone number is (571) 272-3886.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's SPE, Rupal Dharia, can be reached at (571) 272-3880. The fax phone number for the organization is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Quang N. Nguyen
Patent Examiner – AU 2141
August 04th, 2007